

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

WELLS FARGO BANK, N.A., *Plaintiff*,

vs.

Starx Motors LLC, Jean S. Smith, Benjamin Schirage,
Jacques A. Horn, Gene T. Oliver, Michael A. Chavez
and Jacqueline Chavez, *Defendants*.

Case No. 1:20-cv-5455

Hon. Alvin K. Hellerstein, USDJ

Claimant Defendant Gene T. Oliver's Verified Answer and Statement of Claim to the Interplead Funds

Claimant defendant Gene T. Oliver, through Pro Se, hereby answers plaintiff Wells Fargo Bank's complaint for interpleader, and state my claim to the interplead funds as follows.

1. I, Gene Oliver, am unaware of any information on the allegations in the complaint that concern the co-claimants Jean S. Smith, Benjamin Schirage, Jacques A. Horn, Michael A. Chavez and Jacqueline Chavez, the statements of their claims, the amount of funds currently being restrained by Wells Fargo, and the transfer of the funds from the Janis Auto account at Wells Fargo to the Starx Motors account, and I deny knowledge pertaining to the following numbered paragraph in the complaint, but I admit the allegations do concern myself: 1, 2, 3, 5, 6, 7, 8, 9, 11, 15, 17, 18, 20, 21, 22, 23, 24, 25, 26, 28, 29, and 33.
2. I, Gene Oliver, admit paragraphs 4, 27, 30, 31, 34, 35 to the extent and I agree that interpleader is justified for a reasonable and timely determination of the claimants' rights to the interplead funds. Wells Fargo has performed all conditions precedent to filing this action lawsuit and is allowed a reasonable amount to their attorney's fees. Wells Fargo has not done anything to create the dispute over entitlement to the funds, and that an interpleader is necessary to avoid liability litigation.
3. I, Gene Oliver, admit the allegations in paragraph 10 that I am a citizen of Missouri.
4. I, Gene Oliver, admit the allegations in paragraph 12, 13 and 14, that the court has jurisdiction over this dispute, and venue is appropriate in the Southern District of New York.
5. I, Gene Oliver, admit the allegation in paragraph 16 that on February 25, 2020, the Janis Auto Market Account received a wire transfer from my checking account at Community America Credit Union (CACU) in the amount of \$8,900.00.
6. I, Gene Oliver, accept the allegations in paragraph 19 that Starx Motors is a single member entity also owned and operated by Janis Ezergailis with a business checking account at Wells Fargo Bank.

Claimant Oliver's Statement of Claim to the Interplead Funds

7. I, Gene Oliver, had been looking for a Chevrolet K5 Blazer for several months. I found this Blazer on several classic car sites: hotmusclecars.com, classiccars.com, trovit.com. I contacted eAuto Flash Traders to verify it was still available. I was contacted by an individual calling himself Blake Meyers from their Sales Department.

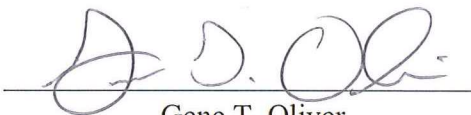
8. I, Gene Oliver, requested a video of the Blazer running and a walk around. Blake stated in the chat that the Blazer was in their warehouse and would need to see who was available to get a video of the Blazer in operation.
9. I, Gene Oliver, went forward with the purchase of the Blazer. I was emailed by orders@eautoflash.com on February 24, 2020 with account information to send the wire transfer, **Exhibit A**.
10. I, Gene Oliver, arranged a wire transfer from Community America Credit Union (CACU) to Janis Auto Market, LLC checking account with Wells Fargo on February 25, 2020 and obtained a receipt for the payment, **Exhibit B**.
11. I received an email of the approved transaction on February 25, 2020 and that the shipping process had begun. I would be able to check the shipping progress through their website www.eautoflash.com on the Transaction Page.
12. I had not received a response from the delivery driver or anyone at eAuto Flash Traders pertaining to the delivery of the Blazer. I attempted contact them multiple times with the unfortunate realization that I had been scammed out of \$8,900.00.
13. I notified my bank that Janis Auto Market account was a scam and hand wrote a letter requesting CACU recall the funds from Wells Fargo on the grounds of fraud.

I, Gene T. Oliver, respectfully request that I be made whole from the interplead fund, or, in the alternative, that I be compensated on a proportionate allocation with the other claimants named herein who come forward, state and establish their right to recovery, and that the court grant other relief as it deems just. I reserve my right to amend this answer to assert cross claims of fraud against Starx Motors LLC in the event it appears in this action, rather than defaults.

Verification

I, Gene T. Oliver, have read my statement of claim against the interplead funds, and confirm under penalty of perjury, pursuant to 28 U.S.C. 1746, that the statements made therein are true, and known by me to be true based upon my personal knowledge.

Dated: September 14, 2020



Gene T. Oliver

913 NW 113th St., Kansas City, MO 64155

(816)-876-0637

PRO SE

EXHIBIT A



Gene O <87.gto.11@gmail.com>

eAutoFlash Traders - Payment Invoice - Transaction ID - 2402546466

1 message

eAutoFlash Traders <orders@eautoflash.com>

Mon, Feb 24, 2020 at 1:11 PM

To: 87.gto.11@gmail.com



eAutoFlash Traders

Customer	Transaction ID#	Invoice Number	Stock#	Invoice Date
Gene Oliver	>>> 2402546466	G1-2402546466	>>> HG537595	02.24.2020



Chat with Us

Transaction Details

Buyer	Gene Oliver
Item Title	1972 Chevrolet Blazer CST K5 4WD
Shipping Fees	US \$0.00
Total Amount	US \$8,900.00
Shipping To	Gene Oliver 8148 NW 90TH St, Kansas City, Missouri, 64153 United States

Once we receive the payment confirmation, the shipping process will start. Until then, the item remains available for sale.

How to make the payment?

Attention: We DO NOT accept cashier's check, or personal check.
Cashiers checks can be easily faked and it can take weeks to figure that out.

To submit the payment, follow this steps:

The buyer must send the payment of (US \$8,900.00) to the eAutoFlash Traders Escrow bank account. It is recommended to send the payment as soon as possible. Sending the payment by any other method of payment will void this transaction and your right to refund.

Bank Account Information

Bank Name:	Wells Fargo
Bank Address:	255 2nd Ave S, Minneapolis, MN 55479 US
Escrow Account Holder:	Janis Auto Market LLC
Mailing Address:	410 Groveland Furnished, Minneapolis, MN 55403 US
Account #	6533326598
Routing #	121000248

e-Mail us a scanned copy or a clear digital picture of the transfer receipt.

The payment confirmation receipt is required by our Financial Department in order to validate the payment. Once the payment is completed, please attach the payment receipt and send it by:



Send your payment details by using OUR SECURE FORM. For security reasons we DO NOT allow customers to send the scanned receipts directly by email.

VERY IMPORTANT - PLEASE READ

Attention:

Item Location:
eAutoFlash Traders Self Storage

Gene T. Oliver
913 NW 113th St.
Kansas City, MO 64155
(816)-876-0637
PRO SE

s/ Gene T. Oliver

EXHIBIT B



9777 Ridge Drive
Lenexa KS 66219
(913) 905-7000

Your wire request for \$8,900.00 will be debited from account 1249369-70.
In addition, a \$25.00 wire fee has been assessed.

*** WIRE DETAILS ***

Wire Sequence

62936

Business Code / Wire Type

CTR-Customer Transfer
1000-Basic Funds Transfer

Originator Information**Originator**

GENE T OLIVER JR
D 1249369-70
8148 NW 90TH ST
KANSAS CITY MO 641537814
United States

Entered Date

02/25/2020 01:44 PM Central Time

Effective Date

02/25/2020

Receiving Financial Institution

121000248 WELLS FARGO NA

Beneficiary Information**Beneficiary**

JANIS AUTO MARKET LLC
D 6533326598
410 GROVELAND FURNISHED
MINNEAPOLIS MN 55403
1972 CHEV BLAZER CSTK5 4WD
United States

Beneficiary Reference

TRANS2402546466

SIGNATURE

DATE 02/25/2020

A handwritten signature in dark ink, appearing to read "Gene T. Oliver", is written over a horizontal line.

The above signed originator requests payment to be made to the beneficiary or account number named above. To the extent not prohibited by law, the undersigned agrees that this wire transfer is irrevocable and that the sole obligation of CommunityAmerica CU is to exercise ordinary care in processing this wire transfer and that it is not responsible for any losses or delays which occur as a result of any other party's involvement in processing this transfer.

Gene T. Oliver
913 NW 113th St.
Kansas City, MO 64155
(816)-876-0637
PRO SE

s/ Gene T. Oliver